

### **REMARKS**

Claims 1, 3-12, and 14-23 are pending in this application.

Applicant has amended claims 1, 3, 8, 11, 12, 14, 19, 22, and 23, and has canceled claims 2 and 13. These changes do not introduce any new matter.

#### **Claim Objections**

In response to the claim objections, Applicant has amended claims 1, 8, 11, 12, 19, and 22 to correct the informalities cited by the Examiner. Accordingly, Applicant requests that the objection to the claims be withdrawn.

#### **Rejections Under 35 U.S.C. § 102**

Applicant respectfully requests reconsideration of the rejection of claims 1-3, 9, 10, 12-14, 20, 21, and 23 under 35 U.S.C. § 102(e) as being anticipated by *Uchino et al.* (“*Uchino*”) (U.S. Patent App. Publication No. US 2003/0008771A1) (as noted above, claims 2 and 13 have been canceled herein). As will be explained in more detail below, the *Uchino* reference does not disclose each and every feature specified in independent claims 1, 12, and 23, as amended herein.

Applicant respectfully traverses the Examiner’s characterization of the *Uchino* reference relative to the claimed subject matter. In support of the anticipation rejection, the Examiner states that the *Uchino* reference discloses that “when the image generation record information includes subject position information indicating a position of a subject in the image 731 (fig. 11, 12, page 5 [0073]), the judging section 321 uses the subject position information in executing the backlight decision (fig. 8, 13, page 5 [0073, 0076]).” Office Action at pages 3-4. In contrast with the Examiner’s characterization, the plural metering areas 71 shown in Figures 11 and 12 of the *Uchino* reference are respectively allocated in the plural divided areas 72 regardless of the position of the subject in the image (see Paragraph [0072]). Thus, the metering area in the *Uchino* reference does not indicate the position of the

subject in the image. Furthermore, the area 731 shown in Figure 12 merely indicates an area with small metering value instead of the subject position (see Paragraph [0073]).

In view of the foregoing, the *Uchino* reference does not disclose the presently claimed features that “the image generation record information includes subject position information indicating a position of a subject in the image” (claims 1, 12, and 23), that “the judging section uses the subject position information in executing the backlight decision” (claim 1), and that “the backlight decision is made using the subject position information” (claims 12 and 23).

Accordingly, for at least the foregoing reasons, independent claims 1, 12, and 23, as amended herein, are patentable under 35 U.S.C. § 102(e) over *Uchino*. Claims 3, 9, and 10, each of which ultimately depends from claim 1, and claims 14, 20, and 21, each of which ultimately depends from claim 12, are likewise patentable under 35 U.S.C. § 102(e) over *Uchino* for at least the same reasons set forth above regarding the applicable independent claim.

Applicant respectfully requests reconsideration of the rejection of claims 11 and 22 under 35 U.S.C. § 102(e) as being anticipated by *Kinjo* (U.S. Patent No. US 7,145,597 B1). Applicant has amended claim 11 to specify “when the image generation record information includes subject position information indicating a position of a subject in the image, the judging section uses the subject position information in executing the backlight decision” (the features of original claim 2). Applicant has amended claim 22 to specify “when the image generation record information includes subject position information indicating a position of a subject in the image, the backlight decision is made using the subject position information” (the features of original claim 13). As neither claim 2 nor claim 13 was included in the anticipation rejection based on the *Kinjo* reference, Applicant submits that claims 11 and 22 now recite features that are not disclosed in the *Kinjo* reference.

Accordingly, for at least the foregoing reasons, claims 11 and 22, as amended herein, are patentable under 35 U.S.C. § 102(e) over *Kinjo*.

Rejections Under 35 U.S.C. § 103

Applicant respectfully requests reconsideration of the rejection of claims 4, 5, 15, and 16 under 35 U.S.C. § 103(a) as being unpatentable over *Uchino* in view of *Sato et al.* (“*Sato*”) (U.S. Patent No. US 6,249,362 B1). Each of claims 4 and 5 ultimately depends from claim 1, and each of claims 15 and 16 ultimately depends from claim 12. The deficiencies of the *Uchino* reference relative to the subject matter defined in claims 1 and 12 are discussed above in connection with the anticipation rejection based on the *Uchino* reference. The *Sato* reference does not cure the above-discussed deficiencies of the *Uchino* reference relative to the subject matter defined in claims 1 and 12. Accordingly, claims 4, 5, 15, and 16 are patentable under 35 U.S.C. § 103(a) over the combination of *Uchino* in view of *Sato* for at least the reasons that these claims ultimately depend from either claim 1 or claim 12.

Applicant respectfully requests reconsideration of the rejection of claims 6 and 17 under 35 U.S.C. § 103(a) as being unpatentable over *Uchino* in view of *Sato*, and further in view of *Nakata et al.* (“*Nakata*”) (U.S. Patent App. Publication No. US 2004/0101296 A1) and *Fukuda et al.* (“*Fukuda*”) (U.S. Patent App. Publication No. US 2003/0142224 A1). Claim 6 ultimately depends from claim 1, and claim 17 ultimately depends from claim 12. The deficiencies of the *Uchino* reference relative to the subject matter defined in claims 1 and 12 are discussed above in connection with the anticipation rejection based on the *Uchino* reference. None of the *Sato*, *Nakata*, and *Fukuda* references cures the above-discussed deficiencies of the *Uchino* reference relative to the subject matter defined in claims 1 and 12. Accordingly, claims 6 and 17 are patentable under 35 U.S.C. § 103(a) over the combination of *Uchino* in view of *Sato* and further in view of *Nakata* and *Fukuda* for at least the reasons that these claims ultimately depend from either claim 1 or claim 12.

Applicant respectfully requests reconsideration of the rejection of claims 7, 8, 18, and 19 under 35 U.S.C. § 103(a) as being unpatentable over *Uchino* in view of *Kinjo*. Each of claims 7 and 8 ultimately depends from claim 1, and each of claims 18 and 19 ultimately depends from claim 12. The deficiencies of the *Uchino* reference relative to the subject matter defined in claims 1 and 12 are discussed above in connection with the anticipation rejection based on the *Uchino* reference. The *Kinjo* reference does not cure the above-discussed deficiencies of the *Uchino* reference relative to the subject matter defined in claims 1 and 12. Accordingly, claims 7, 8, 18, and 19 are patentable under 35 U.S.C. § 103(a) over the combination of *Uchino* in view of *Kinjo* for at least the reasons that these claims ultimately depend from either claim 1 or claim 12.

Applicant respectfully requests reconsideration of the rejection of claims 11 and 22 under 35 U.S.C. § 103(a) as being unpatentable over *Uchino* in view of *Toyoda et al.* (“*Toyoda*”) (U.S. Patent App. Publication No. US 2002/0167592 A1). As noted above, Applicant has amended claims 11 and 22 to include the features of original claims 2 and 13, respectively. Neither the *Uchino* reference nor the *Toyoda* reference discloses or suggests the features that have been added to claims 11 and 22. As such, the combination of *Uchino* in view of *Toyoda* would not have suggested to one having ordinary skill in the art each and every feature specified in claims 11 and 22, as amended herein.

Accordingly, claims 11 and 22, as amended herein, are patentable under 35 U.S.C. § 103(a) over the combination of *Uchino* in view of *Toyoda*.

#### Conclusion

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of claims 1, 3-12, and 14-23, as amended herein, and submits that these claims are in condition for allowance. Accordingly, a notice of allowance is respectfully requested. In the event a telephone conversation would expedite the prosecution of this application, the

**Application No. 10/665,678**  
**Amendment dated October 19, 2007**  
**Response to Office Action mailed July 19, 2007**

Examiner may reach the undersigned at **(408) 749-6902**. If any additional fees are due in connection with the filing of this paper, then the Commissioner is authorized to charge such fees to Deposit Account No. 50-0805 (Order No. MIPFP057).

Respectfully submitted,  
MARTINE PENILLA & GENCARELLA, L.L.P.

/Peter B. Martine/

Peter B. Martine  
Reg. No. 32,043

710 Lakeway Drive, Suite 200  
Sunnyvale, California 94085  
**Customer Number 25920**